

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

DENNIS DIMON,

Plaintiff,

VS.

C. A. No: 05-11073 NG

**METROPOLITAN LIFE
INSURANCE COMPANY, KEMPER
INSURANCE COMPANY,
MORGAN STANLEY DW, INC.,
MICHAEL B. LATTI, LATTI
ASSOCIATES, and LATTI &
ANDERSON LLP,**

Defendants.

**METROPOLITAN LIFE INSURANCE COMPANY’S
MOTION IN LIMINE
TO PRECLUDE KEMPER INSURANCE COMPANY
FROM ADDING TRIAL WITNESSES AND TRIAL EXHIBITS
NOT IDENTIFIED IN THE JOINT PRE-TRIAL MEMORANDUM**

ORAL HEARING REQUESTED

Defendant, Metropolitan Life Insurance Company (hereinafter “MetLife”), moves to preclude Kemper Insurance Company (“Kemper”) from adding Trial witnesses and Trial Exhibits not identified in the Joint Pre-Trial Memorandum.

On May 5, 2008, MetLife received a letter dated May 2, 2008 from Kemper’s counsel.¹ This letter attempts to change the Joint Pre-Trial Memorandum well after it was filed with the Court on April 9, 2008 by adding trial witnesses and new trial experts. The Joint Pre-Trial Memorandum document was carefully prepared by all three parties over the course of more than

¹ The fax line confirms that the letter was not sent by Kemper until May 5, 2008 despite having a date of May 2, 2008. A copy is attached hereto as Exhibit “A”.

a week, with five Joint Conferences and over 16 detailed revisions. The Joint Pre-Trial Memorandum is 39 pages. Kemper's attempt to add to the Joint Pre-Trial Memorandum by a fax letter over a month later, and just eight business days before trial, is not proper and would be highly prejudicial. The newly identified Trial witnesses and Trial Exhibits ought to be precluded.

WHEREFORE, Metropolitan Life Insurance Company prays that this Court issue an Order preclude Kemper Insurance Company ("Kemper") to revise the Joint Pre-Trial Memorandum.

REQUEST FOR ORAL ARGUMENT

MetLife respectfully requests pursuant to Local Rule 7.1(D) that the Court schedule this matter for oral argument. Oral argument will assist the Court in making its decision on MetLife's Motion.

Respectfully submitted by:

Defendant,

METROPOLITAN LIFE INSURANCE
COMPANY,

By its Attorneys,

/s/ James J. Ciapciak
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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing document was filed via the ECF system and will be served electronically through that system upon Counsel of Record on May 13, 2008.

/s/ James J. Ciapciak